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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/242,960	05/16/94	REID	252,32951X60

12M2/0317

CRIMES, J
EXAMINER

WERTEN F W BELLAMY
ANTONELLI TERRY STOUT AND KRAUS
OFFICE OF THE JUDGE ADVOCATE GENERAL DA
901 NORTH STUART STREET STE 400
ARLINGTON VA 22203-1837

ART UNIT

PAPER NUMBER

1205

4

DATE MAILED:

03/17/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire Thirty (30) days from the date of this letter.
Failure to respond within the time period will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENTS ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-15 are pending in the application.
Of the above claims, _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-15 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____ has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

GROUP I - Claims 1-9 Drawn to a process of solvent extraction for preparing microspheres of a biodegradable polymer; and

GROUP II - Claim 10 drawn to an immunostimulating composition.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the process as claimed can be used to make a materially different product such as a microsphere which can be used in a time release capsule.

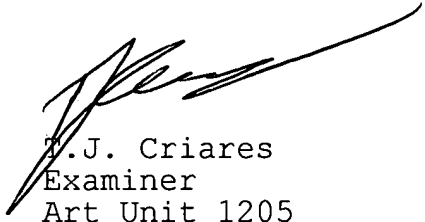
Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Criares whose telephone number is (703) 308-4607.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.



T.J. Criares
Examiner
Art Unit 1205
March 16, 1995